IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1551 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL DILIPBHAI RAMANBHAI

Versus

STATE OF GUJARAT & ORS

Appearance:

1. Special Civil Application No. 1551 of 1994

MR MR MEHTA for MR YN OZA, Sr.Counsel for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 01/04/2004

ORAL JUDGEMENT

The petitioner, by way of this petition, has challenged the order of the respondents. The petitioner

was issued a Kerosene licence by the competent authority in accordance with law for running business for selling Kerosene in retail to the provisional customers. For the first time, the petitioner was issued the licence in 1991 and his contention was that he was very poor, illiterate, with liability of maintaining the whole family.

2. On 16th September 1992, the officers of the respondents raided the premises of the petitioner and they found two irregularities, viz. that the name of the place of business shown at Gujarat Housing Board, Block No.37, Meghraj Road, Modasa was not correct and the business is run at some other place; and secondly, the bill book of sale was not maintained in the prescribed form. The seizure order was passed by the District Supply Officer, Himmatnagar on 16th September 1992. The statement of the petitioner was recorded on the same day and the panchnama was prepared.

2.1 It is the case of the petitioner that he had informed the Mamlatdar, Modasa, at Annexure.C to the petition, but no date is mentioned in the said letter and, therefore, prima facie, the same was not accepted by the competent authority. The District Civil Supply Officer, Sabarkantha, issued show cause notice to the petitioner, at Annexure.D to the petition on 16th October 1992. The petitioner filed his reply to the notice at Annexure.E to the petition and on 2nd January 1993, the District Supply Officer, Sabarkantha, Himmatnagar, passed an order of confiscation of the goods seized on 16th September 1992 and cancelled the licence of the petitioner under Section 6(c) of the Act.

2.2 Against the order of the District Supply Officer, the petitioner preferred an appeal on 22nd April 1993 and prayed for stay. Ultimately, the Collector, by order dated 18th June 1993, dismissed the appeal and confirmed the order of the District Supply Officer. On 7th July 1993, the petitioner approached the Deputy Secretary, Food and Civil Supplies Department, Govt. of Gujarat, by way of revision application, which was also dismissed by order dated 13th December 1993.

3. This Court, while admitting the matter on 4th February 1995 has not granted any stay against the order of the respondents.

4. I have heard learned Advocate Mr.Mehta for the petitioner. The breach committed by the petitioner is of very serious nature and the irregularities found by the authorities are of also very serious nature and

therefore, the authority has rightly cancelled the licence of the petitioner. The petitioner has changed his place of business in contravention of the provisions of Section 18(3)(1) of the Act and conditions 2(a) and 2(b) of the licence and therefore, the authority was justified in cancelling the licence of the petitioner. Apart from that, the petitioner has also committed breach of condition 9 of the licence and therefore also, the authority was justified in cancelling the licence and in passing the order of confiscation of the commodity referred to in the seizure order. Learned Advocate Mr.Mehta has strongly canvased that in view of the first default and as he had no knowledge about following the necessity of rules, a lenient view may be taken. But, looking to the fact that the authority has given concurrent finding, there is no case made out for interference by this Court under Article 226 of the Constitution of India.

5. In view of the above, the petition is dismissed.
Rule is discharged, with no order as to costs.

(K.S. Jhaveri, J.)
Sreeram.